

<sup>1</sup> Accord United States v. Booker, 375 F.3d 508 (7th Cir. 2004); Unites States v. Ameline, 376 F.3d 967 (9th Cir. 2004). But see United States v. Hammoud, 378 F.3d 426 (4th Cir. 2004); United States v. Pineiro, 377 F.3d 464 (5th Cir. 2004). See also United States v. Penaranda, 375 F.3d 238 (2d Cir. 2004).

administered post-Blakely, or perhaps the defendant will decide to waive Blakely issues and let the judge rather than the jury decide sentencing factors, or perhaps the sentencing factors can be bifurcated and tried later to the same jury if the defendant is convicted, but until then the sentencing allegations are proper in the Indictment. The defendant's motion to strike surplusage is **DENIED**.

**So ORDERED.**

**DATED THIS 8TH DAY OF SEPTEMBER, 2004.**

/s/D. BROCK HORNBY

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**D. BROCK HORNBY**

**UNITED STATES DISTRICT JUDGE**

**U.S. DISTRICT COURT  
DISTRICT OF MAINE (PORTLAND)  
CRIMINAL DOCKET FOR CASE #: 03CR116 (DBH)**

**United States of America**

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